



# House of Representatives

General Assembly

**File No. 498**

February Session, 2004

Substitute House Bill No. 5657

*House of Representatives, April 6, 2004*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING HATE CRIMES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2004*) For the purposes of  
2       sections 53a-181j to 53a-181l, inclusive, of the general statutes, as  
3       amended by this act:

4       (1) "Disability" means physical disability, mental disability or  
5       mental retardation;

6       (2) "Gender identity or expression" means a person's gender-related  
7       identity, appearance or behavior, whether or not that gender-related  
8       identity, appearance or behavior is different from that traditionally  
9       associated with the person's assigned sex at birth;

10       (3) "Mental disability" means one or more mental disorders, as  
11       defined in the most recent edition of the American Psychiatric  
12       Association's "Diagnostic and Statistical Manual of Mental Disorders";

13 (4) "Mental retardation" has the same meaning as provided in  
14 section 1-1g of the general statutes; and

15 (5) "Physical disability" means any chronic physical handicap,  
16 infirmity or impairment, whether congenital or resulting from bodily  
17 injury, organic processes or changes or from illness, including, but not  
18 limited to, blindness, epilepsy, deafness or hearing impairment or  
19 reliance on a wheelchair or other remedial appliance or device.

20 Sec. 2. Section 53a-181j of the general statutes is repealed and the  
21 following is substituted in lieu thereof (*Effective October 1, 2004*):

22 (a) A person is guilty of intimidation based on bigotry or bias in the  
23 first degree when such person maliciously, and with specific intent to  
24 intimidate or harass another person because of the actual or perceived  
25 race, religion, ethnicity, [or] disability, sexual orientation or gender  
26 identity or expression of such other person, causes serious physical  
27 injury to such other person or to a third person.

28 (b) Intimidation based on bigotry or bias in the first degree is a class  
29 C felony.

30 Sec. 3. Section 53a-181k of the general statutes is repealed and the  
31 following is substituted in lieu thereof (*Effective October 1, 2004*):

32 (a) A person is guilty of intimidation based on bigotry or bias in the  
33 second degree when such person maliciously, and with specific intent  
34 to intimidate or harass another person because of the actual or  
35 perceived race, religion, ethnicity, [or] disability, sexual orientation or  
36 gender identity or expression of such other person, does any of the  
37 following: (1) Causes physical contact with such other person, (2)  
38 damages, destroys or defaces any real or personal property of such  
39 other person, or (3) threatens, by word or act, to do an act described in  
40 subdivision (1) or (2) of this subsection, if there is reasonable cause to  
41 believe that an act described in subdivision (1) or (2) of this subsection  
42 will occur.

43 (b) Intimidation based on bigotry or bias in the second degree is a

44 class D felony.

45 Sec. 4. Section 53a-181l of the general statutes is repealed and the  
46 following is substituted in lieu thereof (*Effective October 1, 2004*):

47 (a) A person is guilty of intimidation based on bigotry or bias in the  
48 third degree when such person, with specific intent to intimidate or  
49 harass another person or group of persons because of the actual or  
50 perceived race, religion, ethnicity, [or] disability, sexual orientation or  
51 gender identity or expression of such other person or persons: (1)  
52 Damages, destroys or defaces any real or personal property, or (2)  
53 threatens, by word or act, to do an act described in subdivision (1) of  
54 this subsection or advocates or urges another person to do an act  
55 described in subdivision (1) of this subsection, if there is reasonable  
56 cause to believe that an act described in said subdivision will occur.

57 (b) Intimidation based on bigotry or bias in the third degree is a  
58 class A misdemeanor.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential
Judicial Department (Adult Services)	GF - Cost	Potential Minimal	Potential Minimal
Public Safety, Dept.	GF - None	None	None
Police Officer Std. & Training Council	GF - None	None	None
Criminal Justice, Div.	GF - None	None	None
Resources of the General Fund	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

#### **Municipal Impact:**

Municipalities	Effect	FY 05 \$	FY 06 \$
Municipal Police Departments	None	None	None

### **Explanation**

The bill adds disability (either actual or perceived) and gender identity or expression to the bigotry or bias crimes under current law.<sup>1</sup> It thereby subjects repeat offenders to longer periods of incarceration and probation and results in a potential cost. There is currently one individual incarcerated under CGS Section 53a-40a, persistent offenders of crimes involving bigotry or bias. The annual cost of imprisonment is about \$25,000; the average, annual cost of probation supervision by the Judicial Department's Court Support Services Division (CSSD) is estimated to be \$2,000.

<sup>1</sup> Current law provides for bigotry or bias crimes based on a person's actual or perceived race, religion, ethnicity or sexual orientation. On average, 134 hate crimes have been reported annually over the last five years for which data are available. About 50% of these offenses were motivated by racial bias; approximately 15% were based on religion.

It is anticipated that, on an annual basis, the increased cost associated with expanding the persistent offender statute will be minimal (i.e., less than \$50,000). On a cumulative basis over several years, however, the cost could be significant (greater than \$100,000) – depending upon the increased penalty for any single individual.

The bill could increase the number of offenders participating in the hate crimes diversion program administered by the CSSD. The program costs about \$45,000 annually and serves 10-20 clients. A minimal cost (i.e., less than \$50,000) might be incurred annually to expand this program under the bill. There is a potential revenue gain estimated to be less than \$5,000 from the \$425 fee that participants in the program must pay in accordance with CGS Section 54-56e(e).

The bill would require police to monitor, record, and classify the two new categories of crimes based on bigotry or bias. It would also require an expansion of the training on bigotry and bias. Passage of these provisions would not result in the need for additional resources.

By adding two new categories of crimes based on bigotry or bias, the bill increases the scope of the Hate Crimes Advisory Committee established by the Chief State's Attorney. This Committee coordinates federal, state and local efforts to enforce bigotry and bias criminal laws and increases community awareness, reporting and combating of these crimes. It is anticipated that the bill's inclusion of two new categories would result in a workload increase to the Division of Criminal Justice that could be accommodated within budgeted resources.

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**OLR Bill Analysis****sHB 5657*****AN ACT CONCERNING HATE CRIMES*****SUMMARY:**

This bill makes crimes committed maliciously and with intent to intimidate or harass a person because of the person's actual or perceived disability or gender identity or expression, a crime of intimidation based on bigotry or bias. The bigotry or bias crimes currently apply to conduct based on a person's actual or perceived race, religion, ethnicity, or sexual orientation.

The bill defines disability as a physical or mental disability or mental retardation. It defines gender identity or expression as a person's gender-related identity, appearance, or behavior, whether or not it is different from what is traditionally associated with the person's assigned sex at birth.

By adding these crimes to the bigotry or bias crimes, the bill also:

1. makes them subject to the persistent offender statute, which allows the court to sentence a person convicted for a second time of certain bias crimes to the next highest sentence class if the offender's character and history and the nature and circumstances of the crime indicate that the increased penalty best serves the public interest;
2. allows offenders to participate in the hate crimes diversion program as a condition of accelerated rehabilitation;
3. allows a court, as a condition of probation or conditional discharge, to require an offender to participate in an anti-bias crime education program;
4. requires police to monitor, record, and classify these crimes;
5. adds them to the charge of the Hate Crimes Advisory

Committee established by the chief state's attorney which (a) coordinates federal, state, and local efforts to enforce bigotry and bias criminal laws and increase community awareness, reporting, and combating of these crimes and (b) makes recommendations on training police officers about these crimes;

6. adds them to the training on bigotry and bias crimes that must be part of basic or review training programs conducted or administered by the State Police, Police Officer Standards and Training Council, or municipal police departments; and
7. gives a person injured by conduct that results from these crimes a civil action for triple damages for injuries (the court can also award other relief and reasonable attorney's fees).

EFFECTIVE DATE: October 1, 2004

## **BIGOTRY OR BIAS CRIMES**

The bill adds crimes committed maliciously and with intent to intimidate or harass a person because of the person's actual or perceived disability or gender identity or expression, to the three bigotry or bias crimes.

1. A person commits the first-degree crime if he causes serious physical injury to that person or a third person. This is a class C felony punishable by one to 10 years in prison, a fine of up to \$10,000, or both.
2. A person commits the second-degree crime if he (a) makes physical contact with the victim; (b) damages, destroys, or defaces property; or (c) threatens to do either of these things and the victim has reasonable cause to believe he will carry out the threat. This is a class D felony punishable by one to five years in prison, a fine of up to \$5,000, or both.
3. A person commits the third-degree crime if he (1) damages, destroys, or defaces any property or (2) threatens to do so by word or act or advocates or urges another person to do so and gives the victim reasonable cause to believe the act will occur. This crime also applies if the person intends to intimidate or harass a group of

people. This is a class A misdemeanor punishable by up to one year in prison, a fine of up to \$2,000, or both.

## **DISABILITY**

The bill defines disability as:

1. a mental disability—one or more mental disorders as defined in the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders;"
2. a physical disability—a chronic physical handicap, infirmity, or impairment, whether congenital or from bodily injury, organic process or change, or illness, and includes blindness, epilepsy, deafness, hearing impairment, or reliance on a wheelchair or other remedial appliance or device; or
3. mental retardation—significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 39      Nay 2